

REMARKS

Claims 1, 5-14, 18-25, and 29-38 are currently pending in the subject application and are presently under consideration. Claims 1, 14, 25, 36, 37, and 38 have been amended as shown on pp. 2-10 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1, 5-14, 18-25, and 29-38 Under 35 U.S.C. §103(a)

Claims 1, 5-14, 18-25, and 29-38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 6,556,838 to Baker et al. (hereinafter "Baker") in view of US Patent Publication No. 2002/0193115 to Furukawa et al. (hereinafter "Furukawa"). It is respectfully submitted that Baker, either alone or in combination with Furukawa, does not teach or suggest every limitation of the rejected claims. Moreover, Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) ***must teach or suggest all the claim limitations***. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Rejected claims 1, 5-14, 18-25, and 29-38 are generally directed towards novel aspects for responding to received power control instructions. Without acquiescence to the Examiner's rejection, in the interest of clarifying the claimed subject matter, Applicants have amended each of independent claims 1, 14, 25, 36, 37, and 38. As amended, each of independent claims 1, 14, 25, 36, 37, and 38 recite similar aspects for utilizing a running history of received power control instructions in a manner that effectuates a slowed response to such instructions. For instance, independent claim 1, as amended, recites *inter alia* "keeping a running history, up to a

predetermined length, of [] received power control instructions...[and] generating power control bits...*at an effectual response rate* based at least in part on the running history being kept for the power control instructions [], *the effectual response rate being a function of the predetermined length and directly proportional to a batch processing rate of a batching process.*”

As stated in the specification, such a technique is particularly desirable within the context of queued/batched transmission frames. Namely, if power control instructions are responded to in the same manner in a queued/batched processing context as they are responded to in a real time non-queued/un-batched processing context, acting upon excessive consecutive identical power control commands might result due to the delay inserted in the power control loop by the queuing. In turn, the excessive consecutive issuance of identical power control commands may lead to the loss of the channel or communication link. (See e.g., Published Application, Paragraph 0008).

Here, however, such excessive issuance of identical commands is mitigated by keeping a running history of the received power control instructions in a manner that effectuates slowing of a response or response rate to the power control instructions. For instance, by keeping a 2-bit running history of the received power control instructions, the specification discloses various exemplary embodiments in which *an effectual response* to such power control instructions is slowed to approximately the rate of a batch processing mechanism. (See e.g., Published Application, Paragraph 0044). Indeed, several exemplary embodiments are disclosed in which responses to the received power control instructions include sending a plurality of batched transmission frames, wherein the control bits are alternated so as to *collectively* provide a slowed effectual response. (See e.g., Published Application, Paragraphs 0046-0055). Moreover, these exemplary embodiments disclose a slowed effectual response in which control bits are alternated in each of the batched transmission frames to collectively emulate the stored 2-bit running history.

Neither Baker nor Furukawa teach or suggest at least the aforementioned novel aspects of claim 1. Baker is generally directed towards methods for enabling selection of power control step sizes in a base station, whereas Furukawa is generally directed towards a code divided multi access (CDMA) power control system to which soft hand over is applied. However, nowhere does either of Baker or Furukawa mention batching/queuing transmission frames. Accordingly, neither Baker nor Furukawa could teach or suggest providing an effectual response *directly*

proportional to a batch processing rate of a batching process, as recited by claim 1.

For at least these reasons, Baker either alone or in combination with Furukawa does not teach or suggest Applicants' invention, as recited in independent claim 1 (and claims 5-13 which respectively depend there from) and thus fails to obviate the subject claims. Also, because each of independent claims 14, 25, 36, 37, and 38 have been rejected on the same grounds as claim 1, Applicants respectfully submit that these claims (and claims 18-24, and 29-35, which respectively depend there from) are allowable for at least the same reasons provided for claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

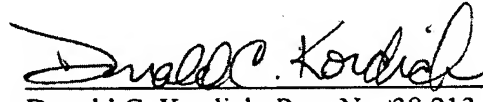
Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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